REMARKS

Claims 1-18 and 20-23 are pending in the Application. Claim 20 has been rewritten in independent form incorporating the features of allowable claim 19. Accordingly, claim 19 has been canceled. Independent claim 11 has been amended to clarify the subject matter. No new matter has been added.

Allowable Subject Matter

The Examiner has indicated that claims 1-10 are allowable. The Applicant thanks the Examiner for the allowable subject matter.

Claim Objections

The Examiner objected to claims 20-23 as being dependent upon base claim 19, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, by this amendment, claim 20 has been rewritten in independent form and claim 19 has been canceled.

Claim Rejections under 35 USC 103

The Examiner has rejected claims 11-14 and 19 under 35 U.S.C. 103 (a) as being unpatentable over Yin (U.S. patent no. 5,982,748). According to the Examiner, Yin discloses the claimed invention:

> "Referring to claim 11, Yin teaches: A method of scheduling a quality of service level to an end user's data transmitted from a base station .... obtaining for each end user a result based on the amount of data previously sent to that end user during a specified interval of time (The CAC sums the **bandwidth** previously utilized by all of the end user during an interval in order to calculate the utilized bandwidth for a given class per col. 5 line 51 – col. 6 line 35) ... " (Emphasis added)

The Examiner suggests that the use of bandwidth in Yin is equivalent to the use of data rate as recited in the claimed invention. Applicant respectfully disagrees and asserts that Yin fails to teach or suggest amended claim 11 for the following reasons. Yin discloses a system that controls the admission of a connection request based on available

system resources such as **bandwidth**. The system specifies the class of service requested and determines available resources for the specified class based on measured traffic flow and the allocated **bandwidth** associated with the specified class. Although Yin mentions bandwidth, it makes no reference to data rate; it is clear that bandwidth is not the same as data rate as used in the present invention.

In sharp contrast, amended claim 11 of the present invention recites a method that includes obtaining for each end user a result based on the **average data rate** for data previously sent to that end user during a specified interval of time. For example, assume that an end user transmits four data bursts D1, D2, D3 and D4 having respective data rates R1, R2, R3 and R4 during a specified time period T. The claimed invention obtains a result based on an **average data rate** of the data rates R1, R2, R3, and R4 sent over the time period T. This result is combined with a specified Quality of Service to determine which end user is next to receive data. (See page 6, lines 18-23 of the present application) Thus, although Yin mentions available resources such as bandwidth, Yin fails to teach or suggest obtaining an average data rate as recited in amended claim 11 of the present invention. Accordingly, the Applicant respectfully asserts that the present invention is not obvious in view of Yin, and claims 11-14 are allowable.

Moreover, Applicant respectfully asserts that claim 11 is patentable over Yin for the following additional reasons. Claim 11 recites a method of scheduling a quality of service at an **end user** level. In contrast, Yin handles connection requests and controls "traffic flow at a connection level." (See column 3, lines 25 -28 of Yin) Yin mentions handling a connection request by identifying traffic parameters and quality of service requirements of all existing connections for the requested class of service. (See column 5, line 60 to column 6, line 2) Nowhere does Yin teach or suggest that handling requests at a connection level is analogous to handling quality of service requests at a user level as in claim 11. Thus, the present invention is not obvious in view of Yin, and claims 11-14 are allowable for the above additional reasons.

Claim 19 has been canceled and thus the rejection directed to claim 19 is now moot.

The Examiner has rejected claims 15-18 under 35 U.S.C. 103 (a) as being unpatentable over Yin (U.S. patent no. 5,982,748) in view of Raychauduri et.al (U.S. patent no. 5,684,791).

Applicant respectfully disagrees for at least the following reasons. As outlined above, Applicant believes that Yin does not disclose amended claim 11. Since claims 15-18 depend on claim 11, these dependent claims should be allowable for at least the same reasons as claim 11. In addition, none of the cited references, including Yin and Raychauduri, or any combination thereof, teach or suggest dependent claims 15-18 for at least the same reasons as claim 11.

Request for Continued Examination pursuant to 37 CFR 1.114

Applicant submits a Request for Continued Examination (RCE) in the instant application pursuant to 37 CFR 1.114 and requests that the Examiner allow pass the application to issue. Please charge the fee for the RCE to our deposit account No. 50-1561, and reference Attorney Docket No. 29633.047600. If there are any additional fees due, please charge any such fees to our deposit account No. 50-1561 and reference the Attorney Docket number listed above. If there is any point requiring further attention prior to allowance, the Examiner is asked to contact Applicants' counsel who can be reached at the telephone number listed below.

Respectfully,

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Date: January 28, 2005